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March 23, 1994

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MAR 23 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Mr. William Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, DC 20554

Re: Notice of Ex Parte Contact  
GEN Docket No. 93-252

Dear Mr. Caton:

On March 23, 1994, Jim Lawson, Mark Stachiw, Kathleen Abernathy and Carl W. Northrop, representing PacTel Paging, met with Carmen Cintron, J. S. Gumbert and Jay Jackson of the Common Carrier Bureau in addition to David Furth and Martin Liebman of the Private Radio Bureau to discuss the regulatory restructuring of the private and common carrier radio services necessary to effect regulatory parity. All items discussed were consistent with PacTel Paging's publicly filed comments in this proceeding and the attached written presentation.

Please include a copy of this notice of ex parte contact in the records of this proceeding in accordance with the Commission's rules, along with the attached copy of the materials presented at the meeting.

Very truly yours,

  
Carl W. Northrop

CWN/tcm DC01 0071110.01

cc: C. Cintron  
J. Jackson  
D. Furth  
M. Liebman  
J. Gumbert

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# ***PACTEL PAGING***

## ***Presentation to the***

### ***Common Carrier and Private Carrier Bureaus***

#### ***Regarding the Reconciliation of Parts 22 and 90***

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***March 23, 1994***

## **GENERAL PRINCIPLES TO APPLY IN RECONCILING PART 22 AND PART 90**

- **LIKE SERVICES SHOULD BE SUBJECT TO LIKE TREATMENT.**
  - PCP and common carrier paging services are functionally equivalent.
  - Common technical standards, technical showings, emission standards, ERP measurement techniques, protection criteria, etc. should apply.
- **LIKE SERVICES SHOULD BE REGULATED BY A COMMON GROUP.**
  - <sup>Working</sup> PacTel favors a regulatory demarcation between narrowband and wideband services.
  - Common carrier paging, PCP and narrowband PCS are narrowband.
  - ESMR, cellular and broadband PCS are wideband.

- **REGULATIONS SHOULD BE MINIMIZED TO THE EXTENT POSSIBLE.**
  - Regional license areas (no smaller than MTAs) should be adopted.
  - Authorizations should be issued for maximum-powered facilities where possible, with licensee flexibility to vary actual operation.
  - Impose the minimal technical standards required to prevent destructive interference.
- **UNNECESSARY PAPERWORK SHOULD BE ELIMINATED.**
  - Eliminate fill-in application requirements within franchise areas.
  - Reduce annual reports.
  - Use one-step licensing.
  - Streamline application requirements.
  - Permit electronic filings.

**DISCREPANCIES BETWEEN  
PART 22 - PART 90**

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**Part 22**

Basic Forms Required:  
FCC Forms 401, 489

Filing fees apply on a  
per transmitter basis

No prior frequency  
coordination

Large number of transmitters  
licensed per call sign

30 day Public Notice  
and protest period

Fee Applications filed  
in Pittsburgh

Applications processed  
in Washington, DC

Rules prohibit co-pending  
paging applications for new  
facilities in the same  
general area

**Part 90**

Basic Form Required:  
FCC Form 574

Filing fees on a  
per call sign basis

Prior frequency  
coordination required

Six transmitter per call  
sign limit

No pre-grant Public Notice

Fee Applications filed  
in Gettysburg

Applications processed  
in Gettysburg, PA

Rules prohibit a second  
exclusive frequency request  
until prior exclusive system  
is built

**PacTel Recommendation**

Create a single new  
simplified form

Filing fees on a "per  
application" basis

No preference provided  
the process works  
efficiently

System-wide call signs  
assigned for integra-  
ted wide-area systems

Pre-grant notification  
of major applications

No preference provided  
that all paging  
filings go to the  
same place

No preference where the  
applications are  
processed. Division  
policymakers should  
remain in D.C.

Permit follow-on  
applications after  
prior applications are  
granted

**Part 22**

Defective applications  
returned without  
reinstatement right

60 day filing window  
for mutually exclusive

Lottery/auction of conflicting  
requests within the MX  
window

Restrictions on settlement  
payments/buyouts

Trafficking rules

12 month basic  
construction timetable

10 year basic license period

90 day discontinuance of  
service allowed without  
license cancellation

**Part 90**

Prompt resubmission of  
returned application  
maintains place in the  
processing line

First-come, first-served  
processing

Lottery/auction only of  
same day filings

No restriction  
on settlements

No trafficking rules

8 month basic  
construction timetable

5 year basic license period

1 year discontinuance of  
service allowed without  
license cancellation

**PacTel Recommendation**

Maintain position in  
processing line with  
prompt reinstatement

Retain right to file  
competing applica-  
tions during shortened  
MX window

Allow frequency con-  
flicts to be resolved  
by agreement, or by  
Commission making  
alternate assignment  
of technically equiva-  
lent spectrum; auction  
only unsettled MX  
channels

Police settlements to  
avoid abuses

Free alienation  
preferred

12 months is  
appropriate

10 years is appropriate

90 days is sufficient;  
discourages warehousing

**Part 22**

Sharing of transmitters  
with non-common carrier  
stations prohibited

State certification required  
before commencing operation

Commission makes frequency  
selection for 900 MHz grant;  
licensee expresses preference

Incidental communications  
permitted

3500 watts permitted for  
900 MHz nationwide carriers  
and for internal sites;  
proposed for all stations

Permissive change rules look  
to net effect of technical  
changes

Ownership changes do not  
require the resubmission of  
technical licensing data

Restrictions on foreign  
ownership

**Part 90**

Shared use of stations  
allowed

No prior state authority  
required

Applicant selects frequency  
through NABER coordination  
process

No provision for incidental  
communications

3500 watts permitted for  
900 MHz nationwide licensees  
only

Modification of license  
application required for  
most technical changes

Ownership changes require  
complete relicensing of  
system in new owners' name

No restrictions on foreign  
ownership

**PacTel Recommendation**

Frequency agile trans-  
mitters should be  
permitted

Statute preempts state  
certification in most  
cases

No preference provided  
the process works  
efficiently

Incidental/auxiliary  
communications should  
be explicitly permit-  
ted with appropriate  
notification procedures

Reconcile discrepancies  
at maximum permissible  
power levels

Net effect of technical  
changes should govern  
filing obligations

Do not require existing  
systems to be  
relicensed in the name  
of a buyer

Statute imposes foreign  
ownership restrictions  
in Commercial Mobile  
Services over time

**Part 22**

Public interest showings required for multiple channel conventional two-way applications; maximum of 4 channels

Finders preferences proposed but not implemented

Proposed facilities can be preconstructed but not placed in service prior to FCC action

Procedures exist for applicants to request comparative hearings

Provisions made for standby facilities

Control frequencies can be licensed under the same call sign as base transmit facilities

EEOC provisions apply

One step licensing plus construction completion

Licenses can be modified without refiling prior sites

**Part 90**

No public interest showing required for 5 channel trunked system

Finders preferences exist in current rules

Coordinated facilities can be preconstructed and operated on an interim basis

No comparative hearings provided for in rules

No provisions for standbys

Separate control station, with separate call sign, required

No EEOC provisions in the rules

One step licensing

Modification of license requires relicensing of all call sign facilities

**PacTel Recommendation**

Eliminate need showings

Allow finders preferences in appropriate circumstances

Allow interim operation of uncontested facilities

Auction off MXed frequencies

Provide for standby facilities

Permit control stations on a system license

EEOC provisions apply to commercial mobile service

Use one step licensing, with simplified construction notification

Do not require relicensing of unaffected sites